

Policy Title:	FRAUD PREVENTION AND INVESTIGATION
Policy Subject:	Governance
Policy No:	#841181v2
Directorate:	Office of the CEO
Department:	Strategic Integration
Section:	Corporate Governance
Responsible Officer:	Executive Manager Strategic Integration
Authorised by:	Chief Executive Officer
Adopted Date:	18/06/08
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OBJECTIVE:

The Fraser Coast Regional Council (FCRC) recognises that fraud and corruption management is an integral part of good governance and management practice. This policy establishes Councils intention to establish and maintain controls which will aid in the prevention and detection of fraud.

Council will adopt fraud prevention and investigation procedures to assist Council, Management and staff to promote consistent organisational behaviour. Guidelines and the assignment of responsibilities will be put in place for the development of fraud prevention controls and those relating to the conduct of investigations into alleged occurrences of fraud.

POLICY:**Philosophy**

Council has a zero tolerance for fraud and corruption. As part of its corporate responsibility and obligation to all stakeholders, Council will ensure that systems, procedures and management practices are in place to prevent the occurrence of fraudulent activities.

Role

Council will establish an environment in which fraud is not tolerated and to demonstrate a commitment to the rigorous management of fraud risk through appropriate procedures for reporting and investigation.

The aim of the policy and associated procedures is to:

- Avoid any incidence of fraud;
- Minimise opportunities for fraud through effective internal controls, awareness and appropriate supervision;
- Encourage ethical dealings at all levels of the organisation;
- Ensure compliance with legal and statutory obligations, and;
- Protect the reputation of Council.

Authorities and Responsibilities

- Council is responsible for ensuring that appropriate measures are in place, and tested, for the prevention and detection of fraud.
- The Chief Executive Officer, Directors, Executive Managers and Managers are responsible for the implementation of this policy and supporting procedures within their areas of responsibility.
- Council employees are responsible for the detection and prevention of fraud within their areas of responsibility and are encouraged to report any suspected case of fraud.

Scope and Activities

The policy applies to any fraud, or suspected fraud, involving Council employees, elected members, contractors, consultants, vendors or any other party with a business relationship with the Fraser Coast Regional Council.

Recording and Reporting Standards

Reporting by staff members plays a crucial role in controlling fraud and corruption. An internal reporting system, whereby staff are encouraged to report fraud needs to be in place. The reporting system should be clear about how to make a report, to whom reports can be made whilst preserving confidentiality.

Various legislation sets out the requirements for Council to report matters of fraud and corruption to the Crime & Misconduct Commission, Queensland Police Service and Queensland Audit Office. Council needs to have in place a mechanism for assessing fraud matters and determining its obligations for reporting them to the relevant external agency.

A proper record needs to be maintained of reports made and how they are addressed.

Relationships

1. An employee who has an interest in a matter in relation to which he or she is required or authorised to act in the course of official duties must disclose the interest to the Chief Executive Officer and must not, unless the Chief Executive Officer otherwise determines, act in relation to the matter.
2. Specific fraud prevention strategies must be implemented that are consistent with overall Council strategies such as defining clear lines for supervisory responsibilities and accountabilities, this places primary responsibility for deterrence and detection with each Executive Manager.
3. Council expects similar standards from contractors, volunteers, agencies or organisations that do business or act on behalf of the Council.
4. Elected members will comply with the Councillors Code of Conduct.
5. All employees of Council have an obligation to adhere to Council's Code of Conduct for staff.
6. In the course of internal assessment of alleged misconduct, the Investigating Officer will refer all cases of suspected official misconduct to the Chief Executive Officer or the Mayor if allegations are against the Chief Executive Officer.

HEAD OF POWER:

Financial Accountability Act 2009

Section 61 - Functions of accountable officers and statutory bodies

Accountable officers and statutory bodies have the following functions—

- (a) to ensure the operations of the department or statutory body are carried out efficiently, effectively and economically;*
- (b) to establish and maintain appropriate systems of internal control and risk management;*

RELATED LEGISLATION:

1. Local Government Act 2009
2. Financial Accountability Act 2009
3. Crime & Misconduct Act 2001
4. Public Interest Disclosure Act 2010

RELATED DOCUMENTS (LOCAL LAWS, POLICIES, DELEGATIONS, ETC):

1. Fraser Coast Regional Council Risk Management Policy
2. Fraser Coast Regional Council Code of Conduct

ATTACHMENT TO POLICY:

1. Fraud Prevention and Investigation Procedure

DEFINITIONS:Fraud

Fraud is characterised by intentional deception to facilitate or conceal the misappropriation of assets or a false representation or concealment of material fact for the purpose of inducing another party to act upon it to their financial injury.

Fraud also includes corruption or a breach of trust or confidentiality in the performance of official duties in order to achieve some personal gain or advantage for themselves or another person or entity.

A basic test for fraud could include the following questions.

- Was deceit used?
- Was the action unlawful?
- Did it result in money or other benefits being received to which the person was not entitled?
- Was a deliberate attempt made to do this?

Official Misconduct

Official Misconduct is defined as any misconduct connected with the performance of an officer's duties that:

- Is dishonest or lacks impartiality,
- Involves a breach of trust, or
- Is a misuse of officially obtained information.

To be considered official misconduct, the conduct must constitute a criminal offence or be serious enough to justify dismissal.

Corruption

Corruption is defined by the Crime and Misconduct Commission as behaviour that may involve fraud, theft, misuse of position or authority or other acts that are unacceptable to an organisation and which may cause loss to the organisation, its clients or the general community. It may also include such elements as breaches of trust and confidentiality.

The behaviour need not necessarily be criminal. The Australian Standard on Fraud and Corruption Control defines corruption as dishonest activity in which a director, executive, manager, employee or contractor of an entity acts contrary to the interests of the entity and abuses their position of trust in order to achieve some personal gain or advantage for themselves or for another person or entity.

ATTACHMENT – Fraud Prevention and Investigation Procedure**PURPOSE:**

The purpose of this procedure is to formalise Council processes in relation to the receipt and actioning of reports of suspected fraudulent behaviour or wrongdoing.

SCOPE:

The Fraud Prevention and Investigation Procedure is intended to provide a consistent and professional response to any reports of suspected fraudulent behaviour or wrongdoing by Council staff or elected members.

The effective control of fraud risk is important in order to protect the reputation of Council, promote ethical conduct within Council, reduce financial and non-financial loss and to ensure compliance with legal and statutory obligations.

PROCEDURE:**Sources of Reports**

Council may receive reports of alleged wrongdoing from the general public, external agencies or internal staff members. These will normally relate to administrative action by Council or alleged conduct breaches by Council employees or Councillors. In some cases, complaints may also relate to allegations of official misconduct by Council employees.

Reports of alleged wrongdoing could be received via;

- Verbally from members of the public;
- In writing from members of the public via mail or email;
- The online Administrative Action Complaints Process;
- The Ombudsman Office, Crime & Misconduct Commission or other external agency referring a matter to Council;
- External or internal Public Interest Disclosures;
- Internal complaints lodged by Council staff.

Suspected Fraudulent Behaviour

As noted in LGAQ Risk Management Discussion Paper (May 2004), the following are some behavioural warning signs to be aware of relating to potential fraudulent behaviour:

- Personnel refusing to take leave, resigning suddenly or failing to attend work for no apparent reason.
- Personnel taking an unusual interest in certain elements of the organisation's business outside their normal scope of duties.
- Internal controls being overridden and ongoing anomalies in work practices.
- Excessive variations to budgets or contracts, missing expenditure vouchers and official records unavailable.
- Refusal to produce files, minutes or other records within a reasonable timeframe.
- Trends and results not meeting agreed expectations.
- Account reconciliations not balancing or not properly maintained.
- Unauthorised changes to systems or work practices.
- Large or long outstanding debtor accounts and bad or doubtful debts.
- Lowest tenders passed over without explanations being recorded.
- Managers bypassing staff or staff bypassing Managers.

- Secretiveness of personnel about their work, duties and responsibilities.
- Unusual working hours or excessive overtime.
- Excessive control of records by one officer.
- Lost assets, absence of controls and audit trails.

The following are considered to be some of the key areas where Council could potentially be exposed to fraudulent behaviour. Adequate management controls need to be in place to address these areas.

- Grant Programs - This could involve a community group receiving favourable treatment in the grant allocation process by comparison with another group. The potential for grants received by Council to be misappropriated must be protected against.
- Misuse of Fuel Cards - This would involve a staff member using or allowing a fuel card to be used for an unauthorised purpose.
- Travel and Other Allowances - This may relate to illegal claims being submitted seeking reimbursement for expenditure that was not incurred or did not relate to Council business.
- Kickbacks, Gifts and Bribes - This would typically involve a member of staff or an elected member accepting a reward in return for doing a favour.
- Accounts Payable - This could occur whereby a Council officer falsified or prepared erroneous invoices/claims for goods or services which were not supplied to the Council.
- Theft of Council Assets - This could involve the theft of Council assets which may include computers, stationery, tools, cameras, vehicles, etc.
- Theft of Cash - This could involve the theft of rates revenue and other cash collected by Council employees or Contractors responsible for collecting cash on Council's behalf.
- People Development/Payroll - This may relate to individuals claiming they have qualifications which they do not hold, falsifying claims for leave entitlements and attendance records and "dummy" names on payroll records.
- Termination of Employment - This could involve staff not returning keys, fuel cards or other equipment when they cease their employment with Council.
- Misuse of Council Data - This could involve staff releasing to the public or others information that they become aware of to gain a pecuniary advantage for themselves or someone else or releasing information to discredit another person's reputation.
- Tendering Irregularities - This may involve situations where one contractor may be given preferential treatment at the expense of another operator.
- Computer Security - This may relate to theft of equipment and the manipulation of data within the computer to gain an advantage for self or someone else. It may relate to a computer virus being introduced to the organisation.
- Private Use of Council Assets & Equipment - This may involve staff using Council assets such as motor vehicles, computers, items of plant, etc. when unauthorised.

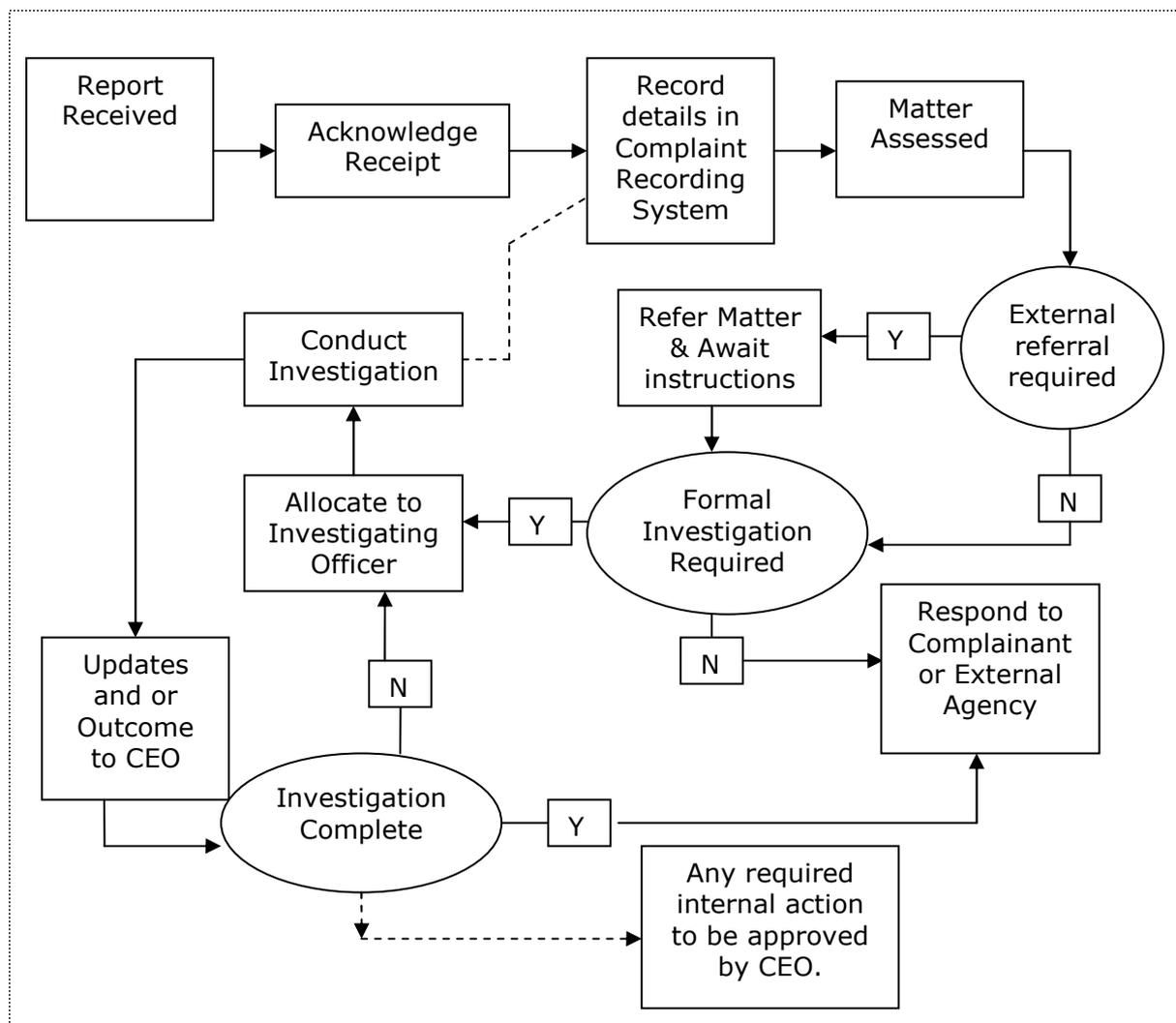
Fraud Prevention & Control

Council will ensure the following functions or procedures are in place and performed as required to aid in fraud prevention:

- A periodic review of Council operations and an assessment of the Council's exposure to risk through an ongoing internal audit process;
- External audit review and the focus on the accuracy of financial systems and the reporting process;

- Accountability of management for the results and deviations from budget in the reporting for their respective departments. The accurate recording of Council assets and regular checks performed to ensure significant items are present;
- Adopted recruitment policies, based on merit selection process, are adhered too and include the confirmation of all relevant employee details and the thorough checking of references;
- Managers regularly review work practices that are open to collusion or manipulation and those clear duties segregation cannot be achieved;
- Procedures in relation to the private use of Council assets by staff;
- Regular review by Managers of staff access levels to corporate systems and controlled areas;
- A delegations register to be maintained and reviewed on a regular basis;
- A Register of Interests established for elected members, CEO, Senior Executives and other employees which is reviewed on a regular basis.

Overview of Process



Reporting Requirements

This procedure applies to the reporting of suspected fraud or wrongdoing involving Council employees, elected members, contractors, consultants, vendors or any other party with a business relationship to Council.

Any person who suspects fraudulent behaviour or wrongdoing is encouraged to report the matter as that person sees fit. Reports may be made to the Mayor, Chief Executive Officer, Elected Members, Director, Executive Manager, Manager or Team leader.

A staff member reporting the matter is also encouraged to provide sufficient detailed information to enable a comprehensive summary to be prepared.

All summaries should identify and include, where possible, the following:

- Section and/or location of the alleged incident;
- Key person(s) involved;
- Nature of the alleged incident;
- Time period over which the alleged incident has occurred;
- Value associated with the alleged incident; and
- Any documentary evidence in support of the alleged incident.

Instances of suspected fraud or wrongdoing should be reported promptly and without delay.

Council would prefer that reports of fraud are not made anonymously, as such reports cannot be pursued if further information is required. Additionally, the results of any investigation cannot be communicated to the reporting officer. However, anonymous complaints will receive due and proper consideration.

A proper record needs to be maintained of reports made and how they are addressed.

Whilst external reporting may be an option for some employees, the CMC requires the Chief Executive Officer to notify the Crime & Misconduct Commission (CMC) if they suspect a matter may involve 'official misconduct'.

The Chief Executive Officer needs to ensure all fraud related matters are assessed and to determine Councils obligations and/or need for reporting them to external agencies. External agencies to which reports of fraud and corruption are made will be determined by legislative requirements, and may include such agencies as the CMC, Queensland Police Service or Queensland Audit Office.

The highest degree of confidentiality will be a feature of reporting and investigating fraud. Confidentiality of employees who report fraud is guaranteed, and the reputation of those potentially involved must also enjoy the highest level of protection.

In order to avoid damaging the reputations of innocent persons initially suspected of wrongful conduct, and to protect the Council from potential civil liability, the results of any investigations will be disclosed or discussed only with those persons who require knowledge of such investigation in the performance of their office or function.

Council will ensure that appropriate documentation of the facts has been achieved in order to permit:-

- appropriate personnel action;
- protection of innocent persons;
- appropriate civil or criminal actions;
- preservation of the integrity of any criminal investigation and prosecution; and
- avoidance of any unnecessary litigation.

Council will treat all cases of reported or suspected fraud with seriousness and confidentiality. Employees who make complaints will not be victimised or disadvantaged and the person against whom the complaint is made will be treated with procedural fairness.

Depending on the severity of the allegations, the Police may be involved in the investigation process. The decision to call the Police will be made by the Chief Executive Officer.

Investigation Procedure

The officers appointed to carry out workplace investigations, must be rigorously impartial, sensitive to the rights of individuals and ensure that the purpose of any investigation, for cases of suspected fraud, is to discover all relevant facts and not just those that are suggestive of guilt.

Council has nominated the Internal Auditor as the principal investigating officer. Where considered necessary by the principal investigating officer, the Executive Manager People Development or other officers deemed necessary may also be engaged to assist. At the conclusion of any investigation, the investigating officer in charge must submit a written report to the Chief Executive Officer or Mayor.

When alleged cases of fraud are reported, a fact finding inquiry will be conducted based on the principles of natural justice and procedural fairness. If the inquiry uncovers fraud, a criminal investigation may commence through the Queensland Police Service or the Crime and Misconduct Commission in cases related to "official misconduct". If an inquiry uncovers misconduct other than fraud, the matter is to be referred to the Executive Manager People Development.

Council will follow the Independent Commission Against Corruption (ICAC) '20 Step Guide to Conducting an Inquiry' when undertaking investigations, the high level steps are as follows;

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| Step 1: | Maintaining confidentiality |
| Step 2: | Getting the big picture: An inquiry overview |
| Step 3: | Interviewing sources |
| Step 4: | Is the source making a protected disclosure? |
| Step 5: | Assessing the information |
| Step 6: | Setting up a file |
| Step 7: | Referrals |
| Step 8: | Defining your scope and purpose |
| Step 9: | Working out your powers |
| Step 10: | Being fair Part 1— Listen to, and consider people's points of view |
| Step 11: | Thinking about 'affected persons' |
| Step 12: | Being fair Part 2— No bias |
| Step 13: | Drafting a fact-finding plan |

Step 14:	Fact-finding tools
Step 15:	Collecting documents
Step 16:	Collecting things
Step 17:	Interviewing people
Step 18:	Interviewing 'affected persons'
Step 19:	Fact-finding
Step 20:	Writing a report

If the inquiry confirms that a fraud has taken place or conduct proved and who is responsible, disciplinary action may be taken as per Council's Discipline Management Policy and Procedures by the Executive Manager People Development.

In addition to the above, the following are key areas to be considered when conducting an inquiry;

- Maintaining confidentiality i.e. identity of the source and the subject, including documents and the recording of information.
- It is vital that instances of alleged misconduct are thoroughly investigated and the employee is made aware of the allegations and provided with a reasonable opportunity to respond. No disciplinary action will be taken against an employee until the case has been fully investigated.
- An assessment of the information (to determine referral for either the Crime and Misconduct Commission, Queensland Police Service or the continuation of the fact finding inquiry).
- Matters relating to a criminal offence will be reported to the police as early as possible to avoid jeopardising potential police investigation. E.g. theft, assault, obtaining benefit by deception, embezzlement or misappropriation of money, bribery.

Communication

Appropriate communication and consultation between key parties to an enquiry is the most effective method of ensuring all facets have been considered.

The key communication and consultation aspects of this procedure are as follows;

- The status or results of any investigations will be disclosed or discussed only with those persons who require knowledge of such in the performance of their office or function;
- Officers reporting suspected fraud will be guaranteed strict confidentiality and advised of investigation outcomes;
- Council expects all staff to be familiar with and act in accordance with the Code of Conduct and expects similar standards from contractors, volunteers, agencies or organisations that do business with the Council;
- An employee who has an interest in a matter in relation to which he or she is required or authorised to act in the course of official duties must disclose the interest to the Chief Executive Officer and must not, unless the Chief Executive Officer otherwise determines, act in relation to the matter.
- Consultation with management to verify the integration of the Fraud Prevention & Investigation Policy with day to day operational activities;
- CEO to be immediately advised where ever there is prima facie evidence to support an allegation of fraud;
- At the conclusion of any investigation, the investigating officer in charge must submit a written report to the Chief Executive Officer;

- Matters relating to a criminal offence will be reported to the police as early as possible to avoid jeopardising potential police investigation.

Duties and Behaviour

Council expects its elected members and staff to maintain a high standard of ethical conduct in all activities, in particular with respect to resources, information and authority. The community rightly expects the Council to conduct its business in a fair and honest manner.

All staff are expected to develop, encourage, insist upon and implement sound financial, legal and ethical decision making within their responsibility levels.

Staff should also be familiar with and act in accordance with the Fraser Coast Regional Council Code of Conduct and elected members to comply with the Code of Conduct for Councillors.

An employee who has a pecuniary interest in a matter in relation to which he or she is required or authorised to act in the course of official duties must disclose the interest to the Chief Executive Officer and must not, unless the Chief Executive Officer otherwise determines, act in relation to the matter.

Decision making should be open and transparent. It is in the best interests of fraud prevention for decision making to be visible and unambiguous to staff, elected members and the public.

Executive Managers and Managers at all levels of the organisation need to lead by example, to demonstrate integrity and fairness in decision making and an open honest relationship in their dealings with others. Specific fraud prevention strategies must be implemented that are consistent with overall Council strategies such as:

- Defining clear lines for supervisory responsibilities and accountabilities.
- Reinforcing the need for disciplinary measures when required.
- Adopting preventative measures to deter and detect instances of fraud – this places primary responsibility for deterrence and detection with each Executive Manager.

Measures to prevent fraud need to be continually monitored and reviewed.

Overall responsibility for coordinating fraud prevention measures rests with the Risk Management function of Council. Responsibilities include:

- Review of any fraud related documentation produced.
- Consultation with management to verify the integration of the Fraud Prevention & Investigation processes within day to day operational activities.
- Questioning to check for understanding of investigation techniques and the Fraud Prevention & Investigation processes.
- To immediately advise the Chief Executive Officer of any situation where there is prima facie evidence to support an allegation of fraud.
- Has the authority to isolate the area of investigation, to prevent destruction or manipulation of evidence and to prevent further damage.
- In consultation with the Executive Manager People Development, recommend to the Chief Executive Officer that staff be suspended from duties during investigations.
- Ensure staff who report fraud are advised that their concerns have been investigated and appropriate action taken.